

REMARKS

This amendment is intended as a full and complete response to the non-final Office Action mailed February 20, 2004. In the Office Action, the Examiner notes that claims 1-21 are pending, of which claims 1-21 are rejected and claim 17 is objected to. The Examiner has also noted that the drawings filed on August 2, 2001 have been accepted.

By this response, Applicants have amended the specification and drawings to correct typographical errors and clarify a feature in the original claims and Applicants have amended claims 1, 8, and 13 to clarify features of their invention. In addition, Applicants have cancelled claims 20 and 21.

In view of the above amendments and the following discussion, Applicants submit that the claims pending in the application are believed to be definite under 35 U.S.C. §112, novel under 35 U.S.C. §102, and nonobvious under 35 U.S.C. §103. Thus, Applicants believe that the application is in condition for allowance.

I. AMENDMENTS TO THE SPECIFICATION

Applicants have amended the specification on pages 5 and 9. On page 5, language from original claim 17 has been inserted into the specification to call for the exemplary technique of auctioning server complex partitions to content suppliers. Also on page 5, the typographical error "course" was replaced by the word "coarse." On page 9, the typographical error "rationale" was replaced by the word "rational" and the typographical error "appraised" was replaced by the word "apprised." These amendments are believed to be proper, justified, and supported by the original application as filed. These amendments introduce no new matter.

II. OBJECTION TO THE SPECIFICATION

The Examiner has objected to the disclosure "because of the following informalities: 'server complex control method 342' on page 10, line 27, page 11, lines 10, 13, 15 should be changed to --server complex control model 342 as shown in

figure 3.--." Applicants have amended FIG. 3 to call for a "server complex control method" in conformance with the original disclosure on pages 10 and 11. As a result, there is no need to amend the specification.

In light of the corrections made to the drawings, Applicants submit that the grounds for objection to the specification have now been obviated. Applicants respectfully request that the objection to the drawing be withdrawn.

III. OBJECTION TO CLAIM 17

The Examiner has objected to claim 17 stating that, "Claim 17 recites limitation 'said server complex partitions are auctioned to said content suppliers' which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Applicants respectfully traverse the objection.

The claimed invention including the limitation of server complex partitions being auctioned to content suppliers is fully supported by the original application as filed. In the interest of having the identical language present in the detailed description, Applicants have amended the specification at page 5 to read, in pertinent part, as follows:

The controller 120 manages the operation of the server complex 130. The controller 120 manages the partitions 135 of the server complex 130 as a set of distinct storage spaces which are "leased", sold, licensed or otherwise compensably allocated to the content providers 110, for example, by auctioning partitions to the content providers. Other means of transferring management of partitions 135 to the content providers 110 will be readily understood by those skilled in the art.

The original specification called for leasing, selling, licensing or otherwise compensably allocating the partitions to service providers. Auctioning is one exemplary technique for compensably allocating the partitions. Auctioning was defined in the original application in claim 17. It has now been repeated in the detailed description via Applicants' amendment.

Auction or auctioning are common, well understood terms which are easily enabled by persons skilled in any art with no additional teaching required. Notice is

readily taken of the prevalence of auctions in everyday life such as auctions for art, other artifacts, estate items, recovered or impounded items, FCC spectrum licenses, and the like.

In view of the amendment to the specification and for the reasons cited above, Applicants submit that the limitation in claim 17 is fully supported and enabled by the specification as filed and even now as amended. Therefore, Applicants respectfully request that the Examiner's objection to claim 17 be withdrawn.

IV. REJECTION OF CLAIMS 20-21 UNDER 35 U.S.C. §102

The Examiner has rejected claims 20-21 under 35 U.S.C. 102(e) as being anticipated by Burns et al. (U.S. Patent 5,991,306, hereinafter "Burns"). Applicants have cancelled claims 20 and 21.

V. REJECTION OF CLAIMS 1-19 UNDER 35 U.S.C. §103

The Examiner has rejected claims 1-19 under 35 U.S.C 103(a) as being unpatentable over Burns in view of Lewis (U.S. Patent Application Publication No. 2003/0040962A1, hereinafter "Lewis"). Applicants have amended independent claims 1, 8, and 13 to define more clearly the features of their invention.

Applicants have taught and claimed a method performed by the service provider delivering content from content providers to subscribers in amended claims 1 and 8 as follows:

1. A method, comprising the steps of:

establishing by a service provider a resource lease with each of at least one content provider, each content provider storing content within said leased resource at at least one service provider location;

fulfilling subscriber requests for available content stored at the at least one service provider location;

generating usage statistics;

providing said usage statistics to said at least one content provider; and

adjusting the content stored in said leased resource according to said at least one content provider.

and,

8. A method, comprising the steps of:

assigning by a service provider to each of a plurality of content providers content management responsibilities for respective service provider resources;

fulfilling subscriber requests for available content stored in said respective service provider resources;

generating usage statistics and providing said usage statistics to said at least one content provider; and

adjusting, in response to information provided by said content providers, content stored within said respective service provider resources.

In addition, Applicants have defined an apparatus in a content distribution network coupled to both subscribers and content providers in amended claim 13 as follows:

13. Apparatus coupled to a plurality of subscribers and to content suppliers, the apparatus comprising:

a controller for distributing video assets; and

a server complex comprising a plurality of partitions, each of said partitions storing video assets provided by a respective content suppliers;

said content suppliers adapting content, including video assets, stored in said respective partitions in response to usage data provided by said controller.

Burns teaches a technique for pre-caching video and audio content from content providers. Pre-caching is performed by a local service provider based upon knowledge of content frequently requested by service provider subscribers. Burns does not disclose establishment of a resource lease between the local service provider and the content providers allowing content providers to store content on the leased resource. Burns also does not teach the presence of a controller for distributing video assets and the plurality of partitions wherein each partition stores video assets provided by respective content suppliers. The lack of these teachings has also been noticed in the present Office Action. Therefore, Burns does not teach, show, or suggest either Applicants' claimed method as a whole in amended claims 1 and 8 or Applicants' claimed apparatus as a whole in claim 13.

Lewis discloses a system including an account transaction server (ATS) in communication with a data management system and audio/video processor recorder-player (VPR/DMS). The VPR/DMS is located at a subscriber site and includes a memory section (Lewis element 14) that is partitioned for various providers. Although the VPR/DMS is a subscriber (an end user) device, space in the memory section of a VPR/DMS may be leased, rented, reserved, or purchased from a host of entities including the subscriber for advertising usage. *See paragraph 0186*. The VPR/DMS also stores subscriber selected content for immediate playing or later playback. In combination with a so-called user suitability criteria and content filter/editor, set manually by the subscriber and not related to usage statistics, the VPR/DMS can decide which stored advertising content can be pushed from the VPR/DMS memory section to the subscriber. *See paragraph 0189*.

It is important to note that Lewis's VPR/DMS is a subscriber device. It is not coupled to a plurality of subscriber devices and a plurality of content providers. It is not located at either the service provider location or the content provider location. It does not fulfill subscriber requests for available content stored at the service provider location; it also does not generate usage statistics; it does not provide usage statistics to the content providers; and it does not adjust the content stored in the leased resource (Lewis's memory section of the VPR/DMS). Lewis's VPR/DMS also lacks the ability for content suppliers to adapt content, including video assets, stored in respective partitions in response to usage data provided by the controller. Thus, Lewis fails to teach, show, or suggest both a number of important steps in applicants' amended claims 1 and 8 and a number of important element limitations in amended claim 13.

It should be noted that, in contrast to Lewis's invention, the invention of Burns is focused on a service provider location. It is not a subscriber device nor does it hint at being applicable to a subscriber location. Rather, the Burns invention communicates with a plurality of subscriber devices and a plurality of content providers. Burns also has no express teaching about leasing, licensing or selling its cache memory to content providers. Moreover, Burns has no express teaching about partitioning its cache memory specifically for each content provider. As a result, the teachings of Lewis and Burns are inapposite to each other and there is no motivation to combine the service

provider arrangement of Burns with the subscriber arrangement of Lewis as suggested ^{24\} in the Office Action except through the use of hindsight, which is inappropriate.

In light of the reasons presented above with respect to independent claims 1, 8, and 13, it is submitted that Applicants' claimed invention would not have been obvious to a person of ordinary skill in the art at the time Applicants' invention was made upon a reading of Burns and Lewis, alone or in combination. As a result, amended claims 1, 8, and 13 are believed to be nonobvious and allowable under 35 U.S.C. §103.

Claims 2-7 depend directly and indirectly from independent claim 1 and add further limitations to the method defined in claim 1. Claims 9-12 depend directly and indirectly from independent claim 8 and add further limitations to the method defined in claim 8. Claims 14-19 depend directly and indirectly from independent claim 13 and add further limitations to the method defined in claim 13. For the reasons set forth above with respect to independent claims 1, 8, and 13, Applicants submit that dependent claims 2-7, 9-12, and 14-19 are not obvious in view of Burns and Lewis. Accordingly, claims 2-7, 9-12, and 14-19 are believed to be allowable under 35 U.S.C. §103.

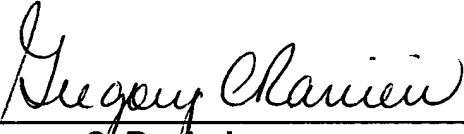
CONCLUSION

In view of the foregoing amendments and remarks, Applicants believe that this application is in condition for allowance. Reconsideration of this application and allowance are respectfully solicited.

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Gregory C. Ranieri, Esq. at (732) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

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